



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

February 4, 1994

Mr. Merrill E. Nunn
City Attorney
City of Amarillo
P.O. Box 1971
Amarillo, Texas 79186-0001

OR94-060

Dear Mr. Nunn:

You ask whether certain information is subject to required public disclosure under the Texas Open Records Act, chapter 552 of the Government Code (former V.T.C.S. article 6252-17a).¹ Your request was assigned ID# 23756.

The City of Amarillo (the "city") has received a request for "[t]he complete case file compiled by the Amarillo Police Department on David Lewis, an Amarillo attorney reported missing on Feb. 1, 1993." You claim the requested information is excepted from required public disclosure under section 552.108 of the Government Code.

Section 552.108 excepts

- (a) A record of a law enforcement agency or prosecutor that deals with the detection, investigation, or prosecution of crime
- (b) An internal record or notation of a law enforcement agency or prosecutor that is maintained for internal use in matters relating to law enforcement or prosecution

Where an incident involving allegedly criminal conduct is still under active investigation or prosecution, section 552.108 may be invoked by any proper custodian of information which relates to the incident. Open Records Decision Nos. 474 (1987); 372 (1983).


¹We note that the Seventy-third Legislature repealed V.T.C.S. article 6252-17a. Acts 1993, 73d Leg., ch. 268, § 46. The Open Records Act is now codified in the Government Code at chapter 552. *Id.* § 1. The codification of the Open Records Act in the Government Code is a nonsubstantive revision. *Id.* § 47.

Certain factual information generally found on the front page of police offense reports, however, is public even during an active investigation. *Houston Chronicle Publishing Co. v. City of Houston*, 531 S.W.2d 177 (Tex. Civ. App.--Houston [14th Dist.] 1975), *writ ref'd n.r.e. per curiam*, 536 S.W.2d 559 (Tex. 1976); Open Records Decision No. 127 (1976) at 3-4 (list of factual information available to the public) (copy enclosed).

Although the investigation had been designated as "inactive" by the Amarillo Police Department, we gather from your correspondence that the investigation is officially open and leads are currently being investigated. Accordingly, except for the type of information normally found on the front page of offense reports, *see* Open Records Decision No. 127, you may withhold the requested information from required public disclosure under section 552.108 of the Government Code.

Because case law and prior published open records decisions resolve your request, we are resolving this matter with this informal letter ruling rather than with a published open records decision. If you have questions about this ruling, please contact this office.

Yours very truly,



Mary R. Crouter
Assistant Attorney General
Open Government Section

MRC/LBC/rho

Ref.: ID# 23756
ID# 24084
ID# 24290

Enclosures: Open Records Decision No. 127
Submitted documents

cc: Mr. Eric Vaughan
Staff Reporter
Amarillo Globe-News
P.O. Box 2091
Amarillo, Texas 79166
(w/o enclosures)